

# Exhibit B

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**CERTIFIED  
ORIGINAL TRANSCRIPT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT  
Case No. 5:17-cv-194

MISTY BLANCHETTE PORTER, M.D.,  
Plaintiff

vs.

DARTMOUTH-HITCHCOCK MEDICAL CENTER,  
DARTMOUTH-HITCHCOCK CLINIC,  
MARY HITCHCOCK MEMORIAL HOSPITAL,  
and DARTMOUTH-HITCHCOCK HEALTH,

Defendants.

C O N F I D E N T I A L

DEPOSITION OF LESLIE DeMARS  
taken on behalf of the Plaintiff at Norwich,  
Vermont, on October 23, 2019, at 9:00 a.m.,  
before Cynthia Foster, Registered Professional  
Reporter.

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APPEARANCES:

Geoffrey Judd Vitt, Esquire  
Sarah Nunan, Esquire  
Julia Korkus, Paralegal  
Vitt & Associates, PLC  
8 Beaver Meadow Road  
P.O. Box 1229  
Norwich, Vermont, 05055, on behalf of the  
Plaintiff, Misty Blanchette Porter, M.D., also  
present.

Katherine Burghardt Kramer, Esquire  
KBK Law  
6 Mill Street  
P.O. Box 23  
Middlebury, Vermont, 05753, on behalf of the  
Plaintiff, Misty Blanchette Porter, M.D., also  
present.

Donald W. Schroeder, Esquire  
Foley & Lardner, LLP  
111 Huntington Avenue, Suite 2500  
Boston, Massachusetts, 02199-7610, on behalf of  
the Defendants, Dartmouth-Hitchcock Medical  
Center, Dartmouth-Hitchcock Clinic, Mary  
Hitchcock Memorial Hospital, and  
Dartmouth-Hitchcock Health.

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1 surprise me at all.

2 Q Did you talk to him about any of these issues  
3 reflected in the exhibits in front of you?

4 MR. SCHROEDER: Who's he?

5 Q Sorry. Ed Merrens.

6 A No.

7 Q Why not?

8 A Because he looked at me at the Credentialing  
9 Committee and said this is on you.

10 Q When were the first discussions about the  
11 possibility of closing the REI Division?

12 A There was no discussion about it. That was  
13 April of 2017, May 2017, that was after this  
14 time.

15 MR. SCHROEDER: After what time?

16 A After February.

17 Q So Ed Merrens thought it was in March. Does  
18 that sound right or do you think it was April  
19 before the discussion started?

20 A I think it was April or May. And there was, the  
21 discussion was never, the discussions we were  
22 having were to contract and to stop IVF. The  
23 discussions were never to close the division.

24 Q And who were the persons who were involved in  
25 these discussions?

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1           you included the Value Institute?

2                   MR. SCHROEDER: She didn't say Ed Merrens.

3       A       I didn't say Ed Merrens.

4       Q       Was he not involved in it?

5       A       No. He was not.

6       Q       Who made the decision ultimately?

7                   MR. SCHROEDER: For what?

8       Q       To close the REI Division?

9       A       Again, we were not talking about that.

10      Q       Well, somebody made a decision to close the REI  
11              Division and to terminate the employees in that  
12              division; is that correct?

13      A       Yes.

14      Q       Who made that decision?

15      A       Dr. Merrens.

16      Q       Okay. Now, prior to getting to that point,  
17              getting to the point of deciding to close the  
18              REI Division, who were the individuals who were  
19              involved in the discussions about the  
20              possibility of contracting the services to be  
21              offered by the division?

22      A       That was me, Heather Gunnell, the Value  
23              Institute, Daniel Herrick.

24      Q       Can you explain, please, what role or function  
25              was performed by the Value Institute in these

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1           them were there.

2       Q       One of the two of them were both conveyed the  
3           conclusions of the Value Institute?

4       A       Correct.

5       Q       Let me take a short break.

6                       (Recess taken 3:18 - 3:30 p.m.)

7       Q       It was pointed out to me that you and I used a  
8           term a few moments ago that can be interpreted  
9           two ways. We talked about "contracting" the REI  
10          services, and what I understood you to mean was  
11          reducing or shrinking the size of the services,  
12          not contracting out those services to a third  
13          party like IVF Boston. You were referring to a  
14          shrinkage, right?

15      A       Correct.

16      Q       Because the transcript could be read to refer to  
17          a plan to send the IVF services to Boston or  
18          some place. That wasn't --

19      A       No. Limiting.

20      Q       Okay. Thank you.

21               Do you understand that you were involved  
22          pretty much from the outset in the discussions  
23          about what to do with the REI Division? Is that  
24          accurate?

25      A       Discussions with whom?

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1 Q With the senior leadership at  
2 Dartmouth-Hitchcock.

3 A I wouldn't characterize those meetings as  
4 discussions.

5 Q How would you characterize them?

6 A I would characterize them as decisions having  
7 been made without having discussions having  
8 occurred, and my arguments to the contrary were  
9 dismissed. Any plans that I had were dismissed,  
10 and a process was put in place over which I had  
11 absolutely no say.

12 Q Why do you believe that your arguments were  
13 dismissed?

14 A Oh, because they were dismissed publicly and  
15 condescendingly.

16 Q By whom?

17 A By Ed.

18 Q When you say "publicly," where?

19 A In a meeting of senior leadership.

20 Q Who was there?

21 A Ed, Daniel Herrick, Heather, Joni Spring who was  
22 one of the nursing leadership, Maria, John  
23 Kacavas, Victoria who's the publicity  
24 communications person. Aimee Giglio.

25 MR. SCHROEDER: Be careful whether or not

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1 ability actually is. What she said was because  
2 this is a business decision to close the  
3 division, there is no longer a position for REI  
4 physicians.

5 Q Was there a discussion in either of the meetings  
6 about redeploying Dr. Porter to do ultrasound  
7 work?

8 A That was not discussed at the meeting. That was  
9 something that I had in the back of my mind  
10 because, again, what I wanted to try to do was  
11 to keep Misty employed. So I had a choice of  
12 could I keep her within the department or could  
13 I have her be a member of the Department of  
14 Radiology. So I actually had a conversation  
15 with Jocelyn Chertoff about potentially having  
16 Misty move into Radiology.

17 Q Was she all right with that?

18 A No. She said I have no, I have no position  
19 available in Radiology. I'm not interested in  
20 hiring Misty within the department.

21 Q Okay. Exhibit 20 will be a document that was  
22 marked as Exhibit 17 during the Merrens  
23 deposition. Numbers are 2582 through 2583, but  
24 there are a series of documents attached to it  
25 that were produced in native format so there are



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1 Q Okay. Now --

2 A The complete shutdown is actually shutting down  
3 the IVF program, not shutting down the division.

4 Q That was your understanding as of this date?

5 A Correct.

6 Q And this assumption of having Dr. Porter  
7 refocused to begin ultrasound, that was  
8 something you had considered as well, right?

9 A Yes. That was, again, because of the  
10 recommendations that were made by the Value  
11 Institute that we needed a shutdown and rebuild  
12 of the IVF program, and that one of the issues  
13 was in Misty's leadership of that program. I  
14 wanted to keep Misty in the department. I  
15 wanted her to be able to concentrate on  
16 something that she was really great at, and then  
17 as she recovered to then work with her on what  
18 we could do with the IVF program as it existed  
19 at that point in the future. So again, this  
20 was, I wanted to keep Misty.

21 Q You said that Aimee Giglio mentioned apparently  
22 more than once in these meetings that it was a  
23 business decision to shut it down, right?

24 A Yes.

25 Q And you said no, it's a personal decision,